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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	
	CC Docket No. 97-140
Local Exchange Carriers Payphone Functions and Features	
Bell Atlantic Telephone Companies Revisions to Tariff F.C.C. No. 1	Transmittal Nos. 962 and 966
GTE System Telephone Companies Revisions to Tariff F.C.C. No. 1	Transmittal No. 206
GTE Telephone Operating Companies Revisions to Tariff F.C.C. No. 1	Transmittal No. 1095

OPPOSITION OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL TO DIRECT CASES OF BELL ATLANTIC TELEPHONE COMPANIES, GTE SYSTEM TELEPHONE COMPANIES AND GTE TELEPHONE OPERATING COMPANIES

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The American Public Communications Council ("APCC") hereby opposes the direct cases of Bell Atlantic Telephone Companies and GTE, filed in these proceedings on September 3, 1997. GTE has now proposed to reduce its rates for payphone features, while Bell Atlantic has not. However, neither company yet satisfies the new services test of the FCC's Payphone Orders.[1]

[1] Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and (Footnote continued)

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I. BELL ATLANTIC HAS FAILED TO JUSTIFY ITS CHARGES FOR UNBUNDLED PAYPHONE FEATURES

Bell Atlantic's proffered justification for its payphone feature charges rests solely on the claim that the feature rates must be reviewed "in the context of the payphone service as a whole, including both the state-tariffed line and federally-tariffed features." Bell Atlantic Direct Case at 2. According to Bell Atlantic, "when the total cost of the features in combination with the essential line service is compared to the rates for this service, including EUCL, the weighted average loading across all seven state jurisdictions is only 40%." Id.

Bell Atlantic's position is without merit. First, the features at issue are *unbundled* features. Subscribers to COCOT, or "station controlled coin line" ("SCCL") service are not required to subscribe to the features. Therefore, it is entirely appropriate to apply the "new services test" individually to the rates for these services on their own, apart from rates for payphone lines or other components of payphone service.[2]

Second, the Commission specifically delegated to the states, in the first instance, the responsibility for reviewing rates and costs for payphone lines. Reconsideration Order, ¶ 163. If the Commission had intended that the FCC's application of the new service

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(Footnote continued)
Order, FCC 96-388, released September 20, 1996 ("Payphone Order"), Order on Reconsideration, FCC 96-439, released November 8, 1996 ("Reconsideration Order"); Order, DA 97-678, released April 4, 1997 (CCB) ("Clarification Order"). The Payphone Order and Reconsideration Order and Clarification Order are referred to collectively herein as the Payphone Orders.

[2] Indeed, the Commission expressly ruled that only "unbundled" features must be federally tariffed. Thus, the Commission expressly recognized that federally tariffed features could and should be evaluated separately from the underlying payphone line.

test would consider the rates and costs for all components of payphone service, it could and should have required local exchange carriers to federally tariff lines and usage as well as unbundled features. Since the Commission (in response to arguments by Bell Atlantic and other Bell companies) ruled that only unbundled features should be federally tariffed, the rates for unbundled features must be justified separately, on the basis of the underlying costs of the features themselves, not in conjunction with services tariffed at the state level.

Further, if the Commission were to consider payphone features as part of a "single integrated service," and to apply the new services test broadly to the "integrated service," the Commission could not consider the monthly rates for lines and features in isolation from Bell Atlantic's rates for local usage. When PSPs subscribe to the state-tariffed payphone *line* service, they not only incur monthly recurring charges, but also local *usage* charges. The applicable charges are 9.3 cents per message unit or, alternatively, 3.4 cents for the first minute and 1.3 cents for each additional minute. Since these rates are also necessarily part of the "integrated service," if the Commission undertook to consider rates and costs for the "integrated service," it would have to consider these rates as well.[3]

Although Bell Atlantic has submitted no cost data in this proceeding indicating the direct costs underlying its local usage rates, it is reasonable to assume that the direct

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[3] In state proceedings, Bell Atlantic argues that its local usage rates are not subject to the new services test because the same local usage rates to business line subscribers. Therefore, Bell Atlantic argues, local usage is not a "payphone specific" service. See Attachment 1. The argument is invalid. The Common Carrier Bureau ruled only that *features* must be "payphone specific" in order to be *federally tariffed*. Clarification Order, ¶ 18. The Bureau never ruled that, LECs can avoid the application of the new services test *at the state level* by setting payphone line or usage charges equal to charges for other services.

usage costs are not substantially higher than the proxy rates identified for local usage in CC Docket No. 96-98 -- 0.2-0.4 cents per minute for local switching and .015 cents per minute for tandem switching. Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 15907, 15910 (1996). Based on 450 local payphone calls per line per month, averaging three minutes per call, the monthly charges incurred by payphone providers are roughly $27.00 per line, while the direct costs are roughly one cent per call or $4.50 per line per month. Adding these numbers to those identified by Bell Atlantic for lines and features in its Attachment results in "loadings" ranging from 189% (($30.52 + $27.00) / $25.99 + $4.50)) in New Jersey to 324% (($34.19 + $27.00) / ($14.38 + $4.50)) -- well in excess of reasonable overhead loadings.

Thus, contrary to Bell Atlantic's claim, an individualized application of the new services test to Bell Atlantic's payphone features will not lead to illegal payphone subsidies or pricing below direct costs for the overall "integrated service."

II. EVEN AS ADJUSTED, GTE'S RATES DO NOT SATISFY THE NEW SERVICES TEST

In its direct case, GTE acknowledges that its earlier estimate of unit investment for the Selective Class of Call Screening feature -- $50 per line -- was incorrect, and now provides a much lower number -- $6.00 per line. This revised investment cost is much closer to being in accordance with the investment cost estimated by other major local exchange carriers. APCC Petition to Suspend and Investigate, filed May 27, 1997, at 6. However, GTE is proposing an approximately 200% overhead loading ratio (price/unit cost). This is unreasonable: APCC sees no reason why overhead loading should exceed 30% or 40%.

Further, GTE proposes a uniform non-recurring charge of $5.00, which seems excessive in relation to the low annual cost ascribed to the service. Most large LECs apply a non-recurring charge only if the screening service is ordered subsequent to installation of the payphone line. Unless GTE is proposing to apply on its charge on this basis, GTE should be required to charge a recurring charge only. Based on GTE's data, the $5.00 non-recurring charge would translate into only $.07 in monthly charges.

Dated: September 10, 1997

Respectfully submitted,

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ATTACHMENT 1

BELL ATLANTIC - MARYLAND, INC.

CASE N0. 8763

RESPONSE TO PEOPLES TELEPHONE COMPANY

DATA REQUEST NO. 1, AUGUST 5, 1997

1. Referring to the FCC Order on Reconsideration, CC Docket No. 96-128, ¶163; rates for payphone service must meet the new services test requirement.

   a. Does Bell Atlantic maintain that the new services test requirement is satisfied as it regards all services used by payphones, including all recurring and non-recurring charges and all usage sensitive charges, such as those for messages and minutes of use? Please explain whether the requirement is satisfied and, if so, how.

   b. Explain whether Bell Atlantic's rates are based on embedded costs, forward-looking costs (TSLRIC, TELRIC or LRIC) or some other measure of cost; why that measure of cost is more appropriate than other measures of cost in this context and what allocation, if any, of shared and common costs is included and why.

   c. Identify the study or studies used by Bell Atlantic to quantify or measure costs for the purpose of satisfying the new services test requirement.

   d. Is it Bell Atlantic's position that the costing methodology applicable to "cost based" as used at ¶163 is equivalent to the costing methodology used to satisfy 47 C.F.R. Section 61.49(g) (New Services Test)? Please explain why or why not?

a. BA-MD objects to this interrogatory on the ground that the interrogatory seeks a legal opinion and/or conclusion rather than factual data. Without waiver of this objection, BA-MD asserts that its payphone service rates are consistent with the new services test. Further answering, BA-MD asserts that local and toll messages and minutes of use are not payphone specific services and, therefore, are not subject to the federal new services test under the applicable FCC guidelines.

b. BA-MD rates are supported by forward looking TSLRIC studies. The total cost for each service includes the direct incremental cost specifically associated with that service and a proportional amount of shared costs. This methodology is appropriate and has been used in the past in support of tariffs that were approved by the Maryland and federal Commissions, including federal new services filings. The same cost studies that have been presented in this case were also used to support the federal tariffs for payphone services that became effective on June 3, 1997, subject to further review by the FCC. TSLRIC methodology is consequently an established and accepted cost methodology for new services test purposes.

c. The cost studies used by BA-MD for the new services test have been provided.

d. BA-MD objects to this interrogatory on the grounds that the interrogatory seeks a legal opinion and/or conclusion rather than factual data. Without waiver of this objection, BA-MD asserts that its cost complies with the federal new services test. Further answering, BA-MD assert that local and toll messages and minutes of use are not payphone specific services and therefore are not subject to the Federal New Services test under the applicable FCC guidelines.

Certificate of Service

I hereby certify that on September 10, 1997, a copy of the foregoing Opposition Of The American Public Communications Council To Direct Cases Of Bell Atlantic Telephone Companies, GTE System Telephone Companies And GTE Telephone Operating Companies was delivered by hand to:

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